



**COMMONWEALTH OF MASSACHUSETTS**

**MIDDLESEX, SS.**

**SPECIAL TOWN MEETING**

**November 4, 2013**

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*The following action was taken:*

*At 7:00 p.m. on November 4, 2013, the Moderator, Jim Coleman called the Special Town Meeting was to order.*

*One hundred sixty seven (167) voters were present.*

*Guests were acknowledged and admitted.*

*The Pledge of Allegiance was led by the Moderator.*

*Motion made and seconded to waive the reading of the warrant in its entirety.*

*Motion carried.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 1            Transfer of funds to pay bills of a prior year.**

To see if the Town will vote to transfer \$1,908.73 from the sewer enterprise stabilization fund to pay unpaid invoices of FY 2013.

To do or act thereon.

SPONSORED BY:	Department of Public Works
APPROPRIATION:	\$1,908.73
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: To transfer \$1,908.73 from the Sewer Enterprise Stabilization Fund to Construction and Maintenance Utilities, Heat account number 0001.0422.521002.0000 for FY2013*

*The Finance Committee recommended.*

## **SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

### **ARTICLE: 2            Dog By-Laws Amendment Section 8**

To see if the Town will vote to amend Section 8 of Chapter XIX, Dog Owner's Responsibility Law, of the Town of Maynard By-laws as follows: (Strikeout text represents deleted language of the proposed amendment.)

#### **Section 8:**

No person shall permit a dog by under their direct control to be off the premises of the owner or person responsible ~~between the hours of 7:00 a.m. and 8:00 p.m.~~ unless the dog is under the full and direct control of the owner or responsible person and kept on a safe and adequate leash. The owner of the dog or person responsible who violates this By-law shall, after receiving a written warning to a violation of this section can be punished for a subsequent offense by a penalty of ten dollars (\$10) for the first offense, twenty-five dollars (\$25) for the second offense, and fifty dollars (\$50) for each subsequent offense. The person responsible for the control of any dog shall be deemed to be a person who has willingly assumed control of the dog from its owner or, in the alternative, the licensed owner of the dog.

To do or act thereon.

SPONSORED BY:	Town Clerk
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: To accept the article as printed in the warrant except the words "To do or act thereon."*

*The Finance Committee recommended.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 3            Dog By-Laws Amendment Section 1**

To see if the Town will vote to delete Section 1 of Chapter XIX, Dog Owner's Responsibility, of the Town of Maynard By-Laws and replace with a new Section 1 as follows:

Section 1 which currently reads:

The annual fee for every dog license, except as otherwise provided by law, shall be ten dollars (\$10) for each dog license issued by the Town.

No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided that the Division of the Blind certifies that such dog is so trained and actual lint he service of a blind person. No license fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the Commonwealth or other disposal of the dog, no shall any license fee or part thereof paid by mistake be paid or recovered back after it has been paid over to the County under Ch. 140, Section 147 of the Massachusetts General Laws.

To read instead:

**Section 1: Licensing**

**A. Three or fewer dogs.**

- (i) Every dog (6) months old or older kept in the Town of Maynard shall be duly registered, numbered, described and licensed on an annual basis. The annual licensing period runs from January 1 through December 31.
- (ii) Every person who becomes owner or keeper of such a dog shall, within thirty (30) days of its becoming six (6) months old or thirty (30) days of becoming its owner or keeper, whichever shall last occur, shall obtain such license from the Town Clerk. The Owner or Keeper shall submit an application on the form proscribed along with proof of rabies vaccination, notarized letter from a licensed veterinarian stating that the dog has been vaccinated, or Board of Health Declaration that the dog is exempt from the vaccination requirement to the Licensing.
- (iii) The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk, and shall be subject to the conditions expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock, fowls or wildlife.

(iv) The owner of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable materials, to which shall be securely attached a tag on a form proscribed and distributed by the Town Clerk when a license is issued. Such tag shall state "Town of Maynard," the year of issue and tag number. The Town Clerk shall maintain a record of the identifying numbers.

(v) If any such tag is lost the owner shall secure a substitute tag issued by the Town Clerk.

(vi) The Town Clerk shall not grant any license until and unless a current rabies vaccination certificate or Board of Health Declaration that the dog is exempt from the vaccination requirement for the animal has been presented.

(vii) A transfer license from another location in Massachusetts shall be granted upon application provided that adequate proof is presented to the Town Clerk at the time of application. Such application shall occur within thirty (30) days of establishing residency within Maynard.

(viii) The annual fee for every dog license, except as otherwise provided by law, shall be ten dollars (\$10.00) for neutered/spayed, fifteen dollars (\$15.00) for intact.

(B) Four or more Dogs:

Any person maintaining a Commercial Boarding or Training Kennel, Commercial Breeder Kennel, Domestic Charitable Corporation Kennel, Personal Kennel, or Veterinary Kennel, upon application shall be issued a kennel license. Prior to the issuance of a kennel license, the Animal Control Officer or Animal Inspector may inspect the proposed facilities to insure they comply with any rules and regulations as they may relate to Kennels.

(i) An owner or keeper of less than four (4) dogs, three (3) months old or older, who does not maintain a Kennel may elect to secure a Kennel license in lieu of licensing each dog individually, provided however that such owner or keeper shall be subject to all provisions of this bylaw relating to the maintenance, operation and licensing of Kennels as if he or she were maintaining a Kennel.

(ii) The Animal Control Officer may at any time inspect any Kennel located in the Town of Maynard.

(iii) Petitions or complaints against any such Kennel shall be filed with the Board of Selectmen. The Board, as well as the Town Administrator, shall have investigatory powers over any such petitions or complaints. Said investigation shall be conducted by the Town Administrator who, within seven days after the filing of such petition or complaint, shall give notice to all parties of interest of a public hearing to be held before the Board of Selectmen within twenty-one (21) days after the date of such notice. After such public hearing the Board may make an order either revoking or suspending such kennel license or otherwise regulating such Kennel, or dismissing said petition. Within ten days after receipt of such order, the holder of such license may bring a petition in the district court as outlined in G.L. c. 140, § 137C. Any person maintaining a Kennel after the license has been revoked, or while such license is suspended shall be punished as set forth in the penalty provision of this bylaw.

(iv) A kennel license shall be in lieu of any other license for a dog kept at a Kennel during any portion of the period for which the kennel license is valid. A kennel licensee shall cause each dog kept in its Kennel to wear, while it is at large, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. Such tags shall be provided to the kennel licensee by the Town Clerk and shall state "Town of Maynard," the year of issue and kennel license number.

To do or act thereon.

SPONSORED BY:	Town Clerk
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: To accept the article as printed in the warrant except the words "To do or act thereon."*

*The Finance Committee recommended.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 4            Dog By-Laws Amendment Section 7**

To see if the Town will vote to amend Section 7 of Chapter XIX, Dog Owner's Responsibility Law, of the Town of Maynard By-laws as follows: (Strikeout text represents deleted language and **bold** font represents proposed amendment.)

**Section 7:**

All owners or keepers of dogs kept in the Town of Maynard during the preceding six (6) months and who, on the first day of ~~June~~ **March** of each year, have not licensed said dog or dogs, as prescribed by Section 173, C. 40 of the Massachusetts General Laws, shall be required to pay a fee of \$10.~~00~~**25.00 for each said unlicensed dog** over and above any other applicable licensing charge or penalty to the Town.

To do or act thereon.

SPONSORED BY:	Town Clerk
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: To accept the article as printed in the warrant except the words "To do or act thereon."*

*The Finance Committee recommended.*

## SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL

### **ARTICLE: 5**

### **Dog By-Laws Amendment Section 9**

To see if the Town will vote to amend Section 9 of Chapter XIX of the Town of Maynard By-laws regarding the “Leash Law”, as follows:

#### **Which currently reads:**

##### **Section 9: Leash Law**

No owner of any dog shall permit such dog to run at large at any time. The provisions of this section shall not be intended to apply to dogs participating in any dog show, nor to “seeing-eye” dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under the control of and aiding the deaf, nor to any dogs being trained or actually being used for hunting purposes while such dogs are actively engaged in hunting activity on property permitting such activity.

Nothing contained in the foregoing paragraph shall prevent the Board of Selectmen from passing any orders authorized by the Massachusetts General Law at such times as they shall deem necessary to safeguard the public.

Every owner of a dog shall exercise proper care and control of their dog so as to prevent said dog from becoming a public nuisance.

**To read instead:** (~~Strikeout~~ test represents deleted language and **bold** font represents proposed amendment. The last two paragraphs have been rearranged.)

No owner of any dog shall permit such dog to run at large at any time. The provisions of this section **shall not apply to the following:**

~~be intended to apply to~~

**a. dogs participating in any dog show,**

**b. ~~nor to~~ “seeing-eye” dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place,**

**c. ~~nor to~~ any dogs properly trained and under the control of and aiding the deaf,**

**d. ~~nor to~~ any dogs being trained or actually being used for hunting purposes while such dogs are actively engaged in hunting activity on property permitting such activity.**

**e. so long as the owner or keeper of a dog(s) is present and attentive to the dog(s) while said dog(s) is running or occupying a “Dog Park”, “Dog Run” or “Dog Exercise Area” which has been so designated by the Board of Selectmen.**

Every owner of a dog shall exercise proper care and control of their dog so as to prevent said dog from becoming a public nuisance.



Nothing contained in the foregoing paragraphs shall prevent the Board of Selectmen from passing any orders authorized by the Massachusetts General Law at such times as they shall deem necessary to safeguard the public.

To do or act thereon.

SPONSORED BY:	Board of Selectmen
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: To accept the article as printed in the warrant except the words “To do or act thereon.”*

*The Finance Committee recommended.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 6      RE: Zoning Bylaw Amendments. Add a new Section 7.7 entitled “Registered Marijuana Dispensary” and add said use to the Use Regulations, Section 3.0.**

To see if the Town will vote to amend the Town’s Zoning Bylaw’s as follows:

**1.** Amend Table A – Use Regulations in Section 3.1.2 to add the use “Registered Marijuana Dispensary (RMD)” within the Principal Uses, Section 4, Business Uses, as an allowable use by Planning Board Special Permit only in the B, HCI and I zoning districts.

<b>4. Business Uses</b>	<b>S-1</b>	<b>S-2</b>	<b>GR</b>	<b>B</b>	<b>CB</b>	<b>HCI</b>	<b>I</b>	<b>GA</b>	<b>OS</b>
Registered Marijuana Dispensary	N	N	N	PB	N	PB	PB	N	N

**2.** And by adding a new section in Section 7.0 *Special Regulations* for Registered Marijuana Dispensary as follows:

**“7.7 Registered Marijuana Dispensary**

**7.7.1** A Registered Marijuana Dispensary (RMD) is considered a non-profit facility or location that has been registered by the Massachusetts Department of Public Health, where medical marijuana is grown, processed and/or made available to a qualifying patient or a personal caregiver as determined by 105 CMR 725.000.

**7.7.2 Spacing Requirements.** A Registered Marijuana Dispensary shall not be sited within the distance of any uses in accordance with 105 CMR 725.110(A)(14).

**7.7.3 Term.** A Special Permit granted under this Section shall expire within two (2) years of the date of issuance of the Permit. Prior to the expiration of the Special Permit, the applicant shall make application to the Special Permit Granting Authority for renewal of the Special Permit for an additional two (2) year period. Said renewal shall not require the technical submissions of the original application, provided that conditions of the site and facility have not changed materially from the original application.

**7.7.4 Transfer.** In addition to the Term requirements specified under Section 7.7.3, a Special Permit granted under this Section shall have a term limited to the duration of the applicant’s

ownership of the premises as a Registered Marijuana Dispensary. A Special Permit may be transferred only with the approval of the Special Permit Granting Authority in the form of a modification to the Special Permit with all information required per this Section 7.7, Section 10.4 and in any Rules and Regulations that have been adopted, per Section 7.7.5.

#### **7.7.5 Further Criteria:**

1. No permit shall be granted hereunder to any applicant, principal officer, agent, owner or manager of the Registered Marijuana Dispensary who has been convicted of a felony in the Commonwealth of Massachusetts. The application shall include proof of the foregoing, by sworn statement and including submission to a CORI from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the SPGA prior to the close of the public hearing whether or not the applicant complies with this criteria.
2. In addition to the criteria and requirements set forth hereunder, the provisions of Section 10.4 shall apply to Special Permits filed under this Section 7.7”

To do or act thereon.

SPONSORED BY:	Planning Board
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: Yes 133, No 18 (101 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words “To do or act thereon.”*

*The Planning Board recommended.*

*The Finance Committee recommended.*

*This article was voted by a secret ballot as required per Town bylaw.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 7 RE: Zoning Bylaw Amendments. Extend Temporary Moratorium on Medical Marijuana Treatment Centers.**

To see if the Town will vote to amend the Town’s Zoning Bylaw, Section 7.9.3, Temporary Moratorium, by replacing the existing Temporary Moratorium expiration date as follows: (Strike out text represents deleted language and **bold** font represents proposed amendment.)

“The moratorium shall be in effect through ~~October 31, 2013~~ **June 30, 2014.**”

To do or act thereon.

SPONSORED BY:	Planning Board
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*This article was withdrawn.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 8 RE: Zoning Bylaw Amendments. Replace existing definition of Supermarket.**

**To see if the Town will vote to amend the Town’s Zoning Bylaw, Section 11.0, Definitions, by replacing the existing definition of Supermarket in its entirety and replacing with the following definition. Changes are in bold and strike-through font represents deletion.**

~~**Supermarket:** A retail establishment or full-service grocery store primarily selling food and grocery items which may provide multiple departments offering for sale unprepared foods such as, but not limited to, fresh meats, fresh poultry, fresh seafood, organic foods, bakery products that are baked on the premises, a fresh produce department and a deli department offering freshly prepared foods and counter service, which may contain a pharmacy and which may sell other merchandise such as convenience items, household supplies, hardware, and personal care and health products.~~

**Supermarket:** An establishment whose primary business is the sale of a general line of food such as fresh fruits and vegetable, fresh and prepared meats, fish and poultry, and canned, packaged and frozen foods, with none of the lines predominating. The floor area devoted to the sale and storage of food comprises a minimum of 75% of the gross floor area of the establishment, with a maximum of 25% of the gross floor area devoted to non-food items. For purposes of this definition, gross floor area shall include indoor and outdoor space utilized for retail display and sale of goods.

To do or act thereon.

SPONSORED BY: Planning Board  
APPROPRIATION: None  
FINCOM RECOMMENDATION:

*The following action was taken:*

*Voted: Yes 154, No 6 (107 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words “To do or act thereon.”*

*The Planning Board recommended.*

*The Finance Committee recommended.*

*This article was voted by a secret ballot as required per Town bylaw.*

## **SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

### **ARTICLE: 9 RE: Zoning Bylaw Amendments. Proposed Amendments to Section 3, Use Regulations, regarding the allowed use of Supermarket.**

To see if the Town will vote to amend the Town’s Zoning Bylaws as follows:

1. In the Section 3.1.2, Table A, Use Regulations, part 4, omit the use “Supermarket” and the designations which follow it.

2. In place thereof, Amend Table A – Use Regulations in Section 3.1.2 by adding the following

a. “Supermarket, up to 25,000 square feet Floor Area, Gross” in the Central Business District (CB), Business District (B), Industrial (I) District, and Health Care/Industrial District (HCI) would be an allowed or permitted use (“Y”); and

b. “Supermarket, greater than 25,000 square feet Floor Area, Gross and up to 65,000 square feet Floor Area, Gross” in the Business District (B), Industrial (I) District and Health Care/Industrial District (HCI) would be allowed subject to Special Permit from the Planning Board (“PB”) but in the Central Business District (CB) would be changed to a prohibited use (“N”); and

c. “Supermarket, greater than 65,000 square feet Floor Area, Gross” in the Business District (B), Industrial (I) District and Health Care/Industrial District (HCI) would be changed to a prohibited use (“N”).

All as set forth below:

<b>4. Business Uses</b>	<b>S-1</b>	<b>S-2</b>	<b>GR</b>	<b>B</b>	<b>CB</b>	<b>HCI</b>	<b>I</b>	<b>GA</b>	<b>OS</b>
Supermarket, up to 25,000 square feet Floor Area, Gross	N	N	N	Y	Y	Y	Y	N	N
Supermarket, greater than 25,000 square feet Floor Area, Gross and up to 65,000 square feet Floor Area, Gross	N	N	N	PB	N	PB	PB	N	N

Supermarket, greater than 65,000 square feet Floor Area, Gross	N	N	N	N	N	N	N	N	N
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To do or act thereon.

SPONSORED BY: Planning Board  
 APPROPRIATION: None  
 FINCOM RECOMMENDATION:

*The following action was taken:*

*Voted: Yes 142, No 16 (105 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words “To do or act thereon.”*

*The Planning Board recommended.*

*The Finance Committee recommended.*

*This article was voted by a secret ballot as required per Town bylaw.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

**ARTICLE: 10      RE: Zoning Bylaw Amendments. Add a new Section 4.1.4, Maximum Total Gross Square Feet and Special Permit.**

To see if the Town will vote to amend the Town's Zoning Bylaw's by adding a new section 4.1.4 in Section 4.0 *Dimensional Regulations*:

**“4.1.4. Total Gross Square Feet Threshold for Special Permit**

1. On any Lot, any new building or combination of new buildings exceeding 25,000 (twenty-five thousand) “Total Gross Square Feet” as hereinafter defined, of space shall be required to obtain a Special Permit from the Planning Board in accordance with Section 10.4 herein.
2. “Total Gross Square Feet” shall mean the gross square feet of the building(s) that is measured from the exterior face of the outside wall to the exterior face of the opposite outside wall for length and width, times the number of habitable levels of space. The Total Gross Square Feet does not include attics with a ceiling height of less than 6’ or basements that are unfinished or uninhabitable. The Total Gross Square Feet shall include roof overhangs extending more than two feet from the exterior building wall, garages, carports, canopies, and other structures whether or not such garages, carports, canopies, or other structures are part of the building or combination of buildings.
3. This Section 4.1.4. shall not apply to Section 9.3.8. Table G. herein”

To do or act thereon.

SPONSORED BY:	Planning Board
APPROPRIATION:	None
FINCOM RECOMMENDATION:	

*The following action was taken:*

*Voted: Yes 116, No 44 (107 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words “To do or act thereon.”*



*The Planning Board recommended.*

*The Finance Committee recommended.*

*This article was voted by a secret ballot as required per Town bylaw.*

## **SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**

### **ARTICLE: 11 RE: Zoning Bylaw Amendments. Add a new Section 4.1.5, Maximum Building Size Retail Establishments in all Districts.**

To see if the Town will vote to amend the Town's Zoning Bylaw's by adding a new section 4.1.5 in Section 4.0 *Dimensional Regulations*:

#### **4.1.5. Maximum Building Size Retail Business in all Districts**

1. Notwithstanding Table B in Section 4.1.1. , Section 4.1.2. Building Coverage, Table G of Section 9.3.8. and Section 9.3.9 District Total, of these Zoning By-laws, in all zoning districts, no single retail business, whether located in a single building or combination of buildings, shall exceed 65,000 (sixty-five thousand) square feet of Gross Retail Area in the aggregate on a single and/or adjoining lot.
2. For the purpose of Section 4.1.5. the term Gross Retail Area shall include indoor and outdoor space utilized for retail display and sale of goods. The Gross Retail Area of adjacent stores shall be aggregated in cases (a) where the stores operate under common ownership or management; (b) are engaged in the selling of similar or related goods, wares or merchandise; (c) share checkout stands, a warehouse, or a distribution facility; or (d) otherwise operate as associated, integrated or co-operative business enterprises.
3. For purposes of this section, a "Wholesale Club" or similar use for which a majority of the customers make their purchases at the site shall be considered a retail use.
4. This Section 4.1.5. shall not apply to Section 9.3.8. Table G herein."

To do or act thereon.

SPONSORED BY: Planning Board

APPROPRIATION: None

FINCOM RECOMMENDATION:

*The following action was taken:*

*Voted: Yes 132, No 15 (98 needed for a 2/3 vote) that the Town accept the article as printed in the warrant except the words "To do or act thereon."*

*The Planning Board recommended.*

*The Finance Committee recommended.*

*This article was voted by a secret ballot as required per Town bylaw.*

*Motion made and seconded to dissolve the November 4<sup>th</sup> 2013 Special Town Meeting at 8:42 p.m.*

**SPECIAL TOWN MEETING – NOVEMBER 4, 2013 – FOWLER MIDDLE SCHOOL**